

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



January 23, 2006

Agenda ID #5292

TO: PARTIES OF RECORD IN APPLICATION 05-01-007

This is the draft decision of Administrative Law Judge (ALJ) Prestidge. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 77.3 opening comments shall not exceed **15** pages. Finally, comments must be served separately on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ Angela K. Minkin

Angela K. Minkin, Chief
Administrative Law Judge

ANG:avs

Attachment

Decision **DRAFT DECISION OF ALJ PRESTIDGE** (Mailed 1/23/2006)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Network International Solutions, Inc. for a Certificate of Public Convenience and Necessity to Provide Facilities-Based and Resale Competitive Local Exchange Services Within the California Service Areas of Pacific Bell and GTE California, Inc.

Application 05-01-007
(Filed January 11, 2005)

**OPINION DISMISSING APPLICATION FOR
FAILURE TO COMPLETE THE APPLICATION**

I. Summary

This decision dismisses the application of Network International Solutions, Inc. (Applicant) for a certificate of public convenience and necessity (CPCN) for authority to provide facilities-based and resold competitive local exchange telecommunications services in this state based on Applicant's failure to complete the application.

II. Discussion

On January 11, 2005, Applicant filed this application for a certificate of public convenience and necessity under Pub. Util. Code § 1001 for authority to provide facilities-based and resold competitive local exchange telecommunications services in California. However, the application was incomplete, because it did not include information regarding any deposits that Applicant would be required to pay to other telecommunications carriers in order to provide service and did not provide acceptable documentation to show that Applicant meets Commission financial requirements for the issuance of a

CPCN. The financial statements included with the application were not audited. The Commission accepts only audited financial statements or certain other types of financial documentation as evidence that a telecommunications provider meets the financial requirements for issuance of a CPCN.

The assigned Administrative Law Judge (ALJ) therefore directed Applicant on several occasions to make a supplemental filing that would include the required information by no later than March 14, 2005. Applicant did not respond to the ALJ's letter and failed to make the requirement supplemental filing by March 14, 2005 or to request an extension of time in which to file the necessary information.

Applicant subsequently contacted the assigned ALJ, stated that it will not be required to pay deposits to other telecommunications carriers in order to provide service in California, and provided information regarding a business revolving line of credit in the amount of \$200,000 that appears to have a two-year term. The ALJ directed Applicant to file additional financial documentation which meets Commission requirements by no later than June 1, 2005. Applicant failed to file additional financial information as directed by the assigned ALJ.

On August 29, 2005, the assigned ALJ issued a ruling that required Applicant to make a supplemental filing which included proper financial documentation to show that Applicant meets Commission financial requirements for providers of facilities-based and resold local exchange services in California within 30 days in order to avoid dismissal of the application without prejudice. This ruling included an explanation of the types of financial documents that would satisfy Commission requirements.

To date, Applicant has not made a supplemental filing in response to the assigned ALJ's ruling and has not requested an extension of time in which to do so.

This application cannot be left open indefinitely. Applicant has been given more than a reasonable opportunity to complete its application for a CPCN and has failed to do so. Therefore, the application shall be dismissed without prejudice based on Applicant's failure to complete the application. This order will be made effective immediately in order to clear this application from the Commission's list of active proceedings.

III. Comments on Draft Decision

The draft decision of ALJ Myra J. Prestidge in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Commission's Rules of Practice and Procedure. Comments were filed on _____.

IV. Categorization and Need for Hearings

In Resolution ALJ 176-3145 dated January 13, 2005, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Applicant has failed to complete this application, despite being given more than a reasonable opportunity to do so. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

V. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Myra J. Prestidge is the assigned ALJ in this proceeding.

Findings of Fact

1. Applicant failed to respond to the assigned ALJ's August 29, 2005 ruling, which directed Applicant to file proper financial documentation to show that Applicant meets Commission financial requirements for issuance of a CPCN within 30 days in order to avoid dismissal of the application without prejudice.
2. The application cannot be left open indefinitely.
3. Applicant has failed to complete the application, despite being given more than a reasonable opportunity to do so.

Conclusions of Law

1. The application should be dismissed based on Applicant's failure to complete the application.
2. This order should be made effective immediately in order to clear this application from the Commission's list of active proceedings.

O R D E R

IT IS ORDERED that:

1. Application 05-01-007 is dismissed.
2. Application 05-01-007 is closed.

This order is effective today.

Dated _____, at San Francisco, California.